

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LISA GARVEY, individually and on
behalf of others similarly situated,

Plaintiff,

v.

KMART CORPORATION,

Defendant.

No. C 11-02575 WHA

**SECOND ORDER
REGARDING RULE 60
MOTION**

With respect to the pending motion for relief under Rule 60, the Court is in receipt of Mr. Michael Righetti's June 6 declaration. The parties shall file on ECF — or if this is not technically feasible, lodge with the court on a disk or other hard media — exact, digital copies of the four email attachments containing the store layouts in the form they were produced to plaintiffs' counsel by **JUNE 11 AT NOON**.

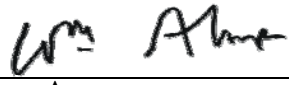
At the June 6 hearing, plaintiffs' counsel represented that they were considering requesting a remand from our court of appeals. The deadline to move for a remand (or not) shall be **JUNE 12 AT NOON**.

The May 28 order regarding the Rule 60 motion (Dkt. No. 341) required Kmart to file sworn declarations by persons with actual knowledge regarding the manner in which checkout configuration documents were collected and why they were not timely produced. It is apparent from the declaration of Emily Schuman (Dkt. No. 347) that Amanda Sommerfeld was involved in this process. Kmart has failed, however, to submit a declaration from Ms. Sommerfeld. Kmart has also failed to submit a declaration from the partner at Winston & Strawn who was

1 responsible for managing discovery (as opposed to a junior associate charged with forwarding
2 documents). Kmart shall submit these two declarations by **JUNE 11 AT NOON**.

3
4 **IT IS SO ORDERED.**

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6 Dated: June 7, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE